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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT  
(Sacramento)

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In re L.R. et al., Persons Coming Under the  
Juvenile Court Law.

SACRAMENTO COUNTY DEPARTMENT  
OF HEALTH AND HUMAN SERVICES,

Plaintiff and Respondent,

v.

S.R.,

Defendant and Appellant.

C083194

(Super. Ct. Nos. JD235240,  
JD235241, JD235242, JD235243,  
JD235244)

S.R., mother of the minors, appeals from the juvenile court's orders denying her petition for modification and terminating parental rights. (Welf. & Inst. Code, §§ 388, 366.26, 395.)<sup>1</sup> On appeal, she contends (1) the juvenile court abused its discretion in

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<sup>1</sup> Undesignated statutory references are to the Welfare and Institutions Code.

denying her petition for modification, (2) there was insufficient evidence to support the juvenile court's finding four of the minors are adoptable, and (3) the juvenile court erred in failing to find the beneficial relationship exception to adoption applied. We conclude the juvenile court did not abuse its discretion in denying the petition for modification, there was substantial evidence to support a finding of adoptability, and the juvenile court did not err in not applying the beneficial relationship exception to adoption. We affirm the juvenile court's orders.

### BACKGROUND

On October 1, 2014, the Sacramento County Department of Health and Human Services (Department) filed section 300, subdivision (b) petitions on behalf of mother's five children--L.R. (newborn), A.R. (age one), E.R. (age two), I.R. (age four), and Ax.R. (age six).<sup>2</sup> The petitions alleged mother and the father of L.R. and A.R. (father)<sup>3</sup> had a history of domestic violence incidents, dating back to at least 2012, and they engaged in domestic violence in the presence of the minors. Mother had recently bailed father out of jail and allowed him back in the home in violation of the restraining order, continued to minimize the violence and did not recognize the risk he posed to the minors. The petition also alleged mother is developmentally delayed and needs assistance to teach her basic life skills. She fails to supervise the minors, has difficulty problem solving, and is easily overwhelmed, placing the minors' safety at risk.

Mother has a history with Child Protective Services (CPS) and received informal supervision services in 2010 and 2011. Mother was also receiving services through Alta

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<sup>2</sup> Ax.R., E.R., A.R. and L.R. are sisters. I.R. is their brother. When discussing the minors, we will use a chronological order starting with the oldest minor, Ax.R. and ending with the youngest minor, L.R.

<sup>3</sup> Minors Ax.R., I.R., and E.R. have different fathers.

California Regional Center (Alta Regional) and receiving disability funds for her intellectual delay and for I.R.'s autism. It was reported the Department held a team decision meeting on September 30, 2014, at which mother did not appear to comprehend the risk domestic violence poses on the minors or that it could have a profound effect on a child's behavior. She had not informed the minors' therapist about the domestic violence in the home, even though she had requested the counseling because of I.R.'s violent behaviors. She had a pattern of stopping services when she disagreed with the assessments being made.

The November 2014 jurisdiction/disposition report stated mother was continuing her relationship with father and he was even attending Alta Regional service provider meetings. Mother had requested her visits with the minors be rescheduled for her to visit with only one at a time, because she was unable to give appropriate attention to all the minors during visits.

The juvenile court appointed a guardian ad litem for mother and, on January 8, 2015, made true findings on the section 300 petitions. The minors were declared dependents of the court and removed from parental custody. The court ordered reunification services for both mother and father. Mother's services included group counseling for domestic violence (unless not sufficient or additional counseling was needed, given some of mother's delays and the extent of the violence). If group counseling was not sufficient, individual counseling was ordered. The court also ordered anger control counseling and anger management counseling.

Ax.R., E.R., A.R., and L.R. were placed together. I.R. was placed in a separate foster home from his four siblings.

Ax.R., I.R., and E.R. were all in therapy. Ax.R. exhibited behavioral issues, including stealing, lying, and manipulative attention seeking behavior. She was

physically aggressive with her peers and siblings, and engaged in self-harm behaviors, including banging her head against the wall.

I.R. showed significant speech and language delays and was receiving Alta Regional services. His ability to distinguish between right and wrong was distorted, and he showed aggressive behaviors toward peers. He was not meeting the social/emotional milestones for a five year old, and exhibited daily bed wetting, insomnia, hitting and threatening others and use of profanity, and he struggled with independent hygiene. His behavior, however, was improving. He was active in special education classes and qualified under the Individuals with Disabilities Education Act criteria for intellectual disability. He also had a behavior intervention plan in place and a speech therapist to help with delays.

E.R. appeared to be healthy and meeting her milestones. After her sister, Ax.R. was placed with her in the home, she began exhibiting attention-seeking and emotional behaviors in her foster home, including pulling her hair, scratching and hitting herself, banging her head on the wall, and vomiting and refusing to eat.

A.R. was meeting her physical and most of her developmental milestones and she appeared to be healthy. She did exhibit underdeveloped fluid and crystallized intelligence (memory, auditory, visual spatial, abstract thinking/problem solving), as demonstrated by her inability to verbally communicate her needs, wants, and desires. In January 2015, she was referred for a special education assessment in the home to help with behavioral modification techniques.

L.R. was meeting her developmental and cognitive milestones, and appeared to share a healthy attachment to her caretakers. By the time of the six-month review hearing, mother had completed parenting classes, domestic violence counseling, and anger management counseling. She was unable, however, to recall or articulate the

material or utilize what had been taught to her when visiting the minors. She had also completed general counseling, but the therapist suggested mother continue with individual counseling. Mother did not want to continue because she believed the therapist was “judgmental” and “biased.” Mother also took issue with the conjoint counseling’s focus on Ax.R.’s behavior, and not including an equal focus on I.R.’s behavior.<sup>4</sup> Mother cancelled the services and the referral was eventually closed. Mother’s pattern of cancelling services when she disagreed with providers was delaying the therapeutic process for reunification. Mother subsequently signed up and attended individual counseling at WellSpace Health with therapist Susan Little. She attended seven sessions during June and July of 2015.

Mother visited regularly but focused much of her attention on the supervising social worker, who she believed was being judgmental and critical. Mother’s ability to tend to all of the minors appeared overwhelming for her. Visits with I.R. were less chaotic because his visits were separate from his sisters’ visits. Mother, however, had difficulty engaging with I.R. or maintaining his interest for over an hour. The maternal grandfather was not approved for visits with the minors due to a non-exemptible conviction--but mother did not understand this and argued the Department was being judgmental. Mother relied heavily on family support and did not appear to understand or accept her family’s history of abuse, neglect, and negativity that could endanger her children.

Father had not completed services and was unable to care for the minors. On August 18, 2015, the juvenile court found mother had consistently engaged in required services, found her progress had been “fair,” and continued reunification services.

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<sup>4</sup> The treatment team explained I.R. was an Alta Regional consumer and they were unable to provide crossover services.

Visitation was to remain supervised. Ax.R. and E.R. were moved together into a new foster home, and A.R. and L.R. were moved together into a different new foster home. I.R. remained in his placement, where he had been since December 2014. The minors visited each other monthly.

In November 2015, it was reported Ax.R. was doing better in her new foster home. She was in active therapy to address instances of stealing, lying, and mood swings. She was healthy and meeting physical developmental milestones, but appeared to be developing at a slower rate and mimicking negative behaviors and mannerisms she learned in mother's care. She was described as friendly and intelligent, but lacking boundaries with peers and adults. Continued therapy was recommended. Despite her behavior problems, she and her younger sisters were all assessed as generally adoptable.

I.R. appeared to be developing at an "unsatisfactory rate." A full assessment was difficult because of I.R.'s "unmanageable behavior." I.R. was meeting physical developmental milestones, but did not meet cognitive and language milestones due to his language and speech delays. He had been diagnosed with autism and was receiving services from Alta Regional. His ability to distinguish right from wrong was distorted and he exhibited inappropriate and aggressive behavior. His teacher and foster mother maintained regular contact to deal with his challenging behavior in school. I.R. was participating in therapeutic services and the foster mother was able to direct and redirect I.R. to proper behavior. He was making progress, and his caregiver expressed love for him and the desire to adopt him.

E.R. was healthy and meeting developmental milestones. She was in preschool and there were no concerns reported. She had exhibited some learned temperament behaviors in the form of self-harm when upset, but they appeared to be for attention-

seeking purposes and were no longer taking place. She was described as kind and energetic. She was addressing boundary issues, coping skills, and her difficulty in expressing herself in play therapy. The behavior challenges she had when initially placed had decreased.

A.R. was physically healthy and meeting physical developmental milestones. She had resumed therapy after having a difficult time adjusting to her new placement in August 2015. She was described as a lovable child who was often in need of individualized attention. She was very sensitive to new people and new surroundings. She spoke only a few Spanish and English words. She would freeze when told the word “no,” although she could be coaxed out of this behavior. She appeared attached to her foster mother and remained near her. Her affect and behavior was consistent with a child who had experienced or witnessed trauma.

L.R. was healthy and meeting all developmental and physical milestones. She was described as an active and curious toddler. She appeared to have a healthy attachment to her caregiver and there were no concerns about her emotional well-being.

Mother was residing in an apartment that was kept neat and clean. Her sister’s name was also on the lease but mother denied her sister lived there or had a key. Mother requested I.R. be placed with her for the purpose of increasing her monthly income with Social Security Income for I.R.’s autism. The Department declined. Since the August 2015 review hearing, mother had continued receiving support services from Alta Regional. She was on the waiting list for a work program and had been given numerous resources for help in such areas as obtaining a GED, self-esteem and wellness classes, and “Passport” classes specific to protection and safety. Mother reported she was taking some of these classes and was working on earning her high school diploma.

She also said she had attended some Passport classes, but there was no supporting documentation.

Although mother had completed most of her case plan before August 2015, and had since reported she had continued taking classes, the social worker assessed the risk of returning the minors to be high. When asked how she would keep her children safe from future harm and abuse, mother responded, “I would just keep them safe,” and was unable to specify how she would recognize warning signs of abuse prior to the children actually being abused. She later claimed she did not go into more detail because she “didn’t want to be wrong.” She also denied she and her sister had gotten into a loud argument in front of a foster family agency that required law enforcement officers to be called. She denied her sister was verbally abusive to her (despite the many witnesses to the incident) and complained the Department was continuing to judge her.

A referral had been made for conjoint/family therapy with Terra Nova but, due in part to mother’s resistance, Terra Nova stated it could not accommodate the family at the time. Arrangements were made with Sierra Forever Families for the family counseling but mother appeared hesitant. By October 2015, the family had participated in three sessions. They were working on communication and interaction. Mother was able to verbalize directions, make eye contact, and show consequences. She was able to express what she wants to the children. But she had difficulty playing with the children, showing imaginary play, and taking the lead when it was her turn.

Mother had been consistently visiting the minors. The visitation monitors reported mother clearly loves her children but has difficulty taking direction from workers in their efforts to help her better manage or parent them. For example, the minors were “all over the place” during a September 2015 visit, and mother was unable to multi-task with all the children. Mother’s October 22, 2015 visit was described as “terrible.” The minors



were cranky and mother did not know what to do. It was reported mother would not accept feedback on engaging with the minors. She had been given several suggestions on engagement or activities, none of which mother attempted or followed.

An updated report was filed in February 2016. A visit was arranged with mother and all of the minors to assess mother's ability to interact with all five children together. The January 20, 2016 visit demonstrated mother had difficulty engaging and directing all five children. At one point during the visit, three of the minors ran out of the room. The social worker directed mother to follow the children. Mother retrieved two of the children and the social worker retrieved the third child.

On March 9, 2016, the juvenile court found mother and father had failed to make substantive progress and terminated reunification services. In so concluding, the court found, although mother had completed her case plan, she had not demonstrated the capacity to protect the children from further domestic violence in relationships. Father had made progress in his services but he had no stable housing, income, or family members to assist him. His immigration status was uncertain. The section 366.26 hearing was set for June 27, 2016.

On May 12, 2016, mother filed a section 388 petition for modification seeking return of all five minors to her physical custody or, alternatively, return of the three oldest minors Ax.R., I.R., and E.R. Mother alleged she had been continuing to attend programs through Alta Regional and she felt the quality of her visits with the minors had improved. The juvenile court set the hearing on the petition for June 6, 2016. It was then continued to be heard in conjunction with the June 27, 2016 section 366.26 hearing.

The social worker's June 2016 section 366.26 report recommended termination of parental rights and adoption for the minors. Mother had been attending her supervised visits every other week. The social worker had recently observed a visit and reported

mother did not engage with either of the two youngest daughters, A.R. or L.R., or speak to them, until 15 minutes into the visit. The focus of mother's attention during visits was on her son, I.R. She did not interact consistently with all the children and required assistance throughout the visit to redirect the minors, and get them to listen or follow directions. The minors separated easily from mother at the end of visits and did not show distress for her or cry for her when she was not around. I.R. would also become more defiant and would urinate on himself on the days before and after visits with mother.

I.R. continued to struggle with aggression, and held a distorted concept of right and wrong. He was still active in therapy and working on redirection. I.R.'s foster family remained committed to adopting him, and I.R. appeared happy and secure in the home.

Ax.R. and E.R. were still active in therapy. Ax.R. still exhibited challenging behavior with a tendency to steal, be untruthful, and show a lack of boundaries, but her behavior was continuing to improve. E.R. continued to engage in self-harm behaviors, but her caregiver noted the frequency of this behavior had decreased, and she was able to calm E.R. by hugging her and talking in a calm voice. A.R. needed individual attention, struggled with new situations, and rarely spoke. A licensed, home study approved prospective adoptive home had recently been identified for the four sisters (Ax.R., E.R., A.R., and L.R.) to reside together. A disclosure meeting had been conducted and an initial introduction meeting was scheduled for June 17, 2016. The prospective adoptive parent was a teacher who had experience with children in foster care and wanted to adopt. She had a completed screening and was open to post-adoption sibling contact with the brother, I.R.

The section 366.26 hearing was continued to September 20, 2016. On September 9, 2016, the Department filed a request to change the visitation order to one of no contact with mother. The Department alleged mother had coerced I.R. into harming himself and placing blame for his injury on his caretaker. When asked about marks on his arm, he shared that he had made them by sucking on his arm. He further shared that his mother told him to do it, she would put medicine on it, and told him to blame his caretaker for causing the injury.

The combined section 388 and section 366.26 hearing commenced on September 20, 2016. At the hearing, John Christopher Munoz, mother's case manager at Alta Regional, testified he was assigned to her case in March 2016, met with mother quarterly, and communicated with her via e-mail and phone regularly. Alta Regional services are voluntary. Through Alta Regional, mother had participated in an anger management program called Passports that was a 10-week program designed to assist in interpersonal skill and her general needs at home. Mother was very successful in the program and was interactive in the sessions. Mother also participated in an independent living service, through On My Own that provided parenting training for in the home and in the community. Munoz described mother as responsive and resourceful. He had observed a tremendous amount of improvement in her communication. Mother was currently seeking employment through the Department of Rehabilitation. She was not currently participating in any other services through Alta Regional.

Melissa Bauer, an independent living assistant with On My Own, testified she had been assigned to mother's case in July 2016. Mother was approved for six hours a month of one-on-one parenting support. Bauer had approximately nine hours of parenting support to help mother build a support network and learn to set limits and rules. She had observed a one-hour visit between mother and the minors in August 2016 and, while the

visit was initially “a little chaotic,” mother managed the minors pretty well and Bauer had no concerns about her ability to parent the minors.

Hazel Aldaz, the monitor for the Passport to Learning anger management class, testified mother attended all 10 sessions and appeared to be attentive and retaining the material presented.

Mother testified that, since her reunification services were terminated in March 2016, she had completed the 10-session anger management course with Passport to Learning, attended more than 10 domestic violence classes through Community for Peace, attended a mindfulness class at the Wellness Center, received parenting services, and participated in approximately 25 counseling sessions through Life Practice. She was living in an apartment with a roommate and actively looking for work. When asked if she thought visitation had improved since March 2016, she replied each visit was different but she had control over the children, as evidenced that they did not run out the doors and tried to follow the rules. She also believed she was consistent and encouraging with the children. She opined she was a better parent now because she had learned skills to keep her children safe and to nurture them. Mother also testified she had a boyfriend that she did not disclose to her counselors or the social worker, but she would put the relationship on a one-year hold if the children were returned to her custody.

The social worker testified the sisters (Ax.R., E.R., A.R., and L.R.) were now in their prospective adoptive home. In the months prior to placement, they had once or twice weekly visits, and four to five overnight or weekend visits with their new prospective adoptive parent. They appeared to be excited about their new home. They were moved to the home together in late August. The transition went smoothly and there were no concerns.

The social worker had observed, from an adjacent room, a visit between mother and the minors in June 2016. In her opinion, mother was unable to engage successfully with all five children consistently over the hour visit. Mother did not engage at all with two of the minors for the first 15 minutes of the visit. I.R. experienced behavioral issues and mother needed help from the visitation supervisor to redirect I.R. Mother also needed the supervisor's assistance throughout the visit, because the children were not listening and mother was unable to redirect them.

At the conclusion of the hearing, the juvenile court denied mother's section 388 petition for modification seeking return of the minors. The juvenile court found the minors were likely to be adopted, found no exception to adoption applied, and terminated parental rights.

## DISCUSSION

### I

#### *Petition for Modification*

Mother contends the juvenile court's denial of her section 388 petition for modification seeking return of the minors to her custody constituted an abuse of discretion. We conclude there was no abuse of discretion.

A parent may bring a petition for modification of any order of the juvenile court pursuant to section 388 based on new evidence or a showing of changed circumstances.<sup>5</sup>

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<sup>5</sup> Section 388 provides, in part: "Any parent . . . may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court . . . for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court." (§ 388, subd. (a)(1).) The court must set a hearing if "[i]t appears that the best interests of the child . . . may be promoted by the proposed change of order . . . ." (§ 388, subd. (d).)

“The parent requesting the change of order has the burden of establishing that the change is justified. [Citation.] The standard of proof is a preponderance of the evidence. [Citation.]” (*In re Michael B.* (1992) 8 Cal.App.4th 1698, 1703.) Determination of a petition to modify is committed to the sound discretion of the juvenile court and, absent a showing of a clear abuse of discretion, the decision of the juvenile court must be upheld. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 318-319; *In re Robert L.* (1993) 21 Cal.App.4th 1057, 1067.) The best interests of the child are of paramount consideration when the petition is brought after termination of reunification services. (*In re Stephanie M.*, *supra*, 7 Cal.4th at p. 317.) In assessing the best interests of the child, the juvenile court looks not to the parent’s interests in reunification but to the needs of the child for permanence and stability. (*Ibid.*; *In re Marilyn H.* (1993) 5 Cal.4th 295, 309.)

Here, mother presented evidence she had continued to engage in services and been cooperative with her service providers. The juvenile court accepted this as a change of circumstances and new evidence. Nonetheless, the juvenile court denied mother’s petition because she failed to establish the proposed modification--return of the minors--was in the minors’ best interests.

Mother did present evidence at least some of the visits with the minors had improved during the period between April and August 2016--visits at which her sister was usually also present. The visitation logs indicate mother interacted positively with the minors during visits that took place between April and August 2016, and the evaluations of the visits were generally good. On the other hand, mother had not progressed to unsupervised or overnight visits. Mother still had difficulty engaging and directing the children during visits.

At a recent June 2016 visit, mother did not engage the two youngest daughters, A.R. and L.R., until 15 minutes into the visit. She was unable to direct the minors’

behavior and required assistance from the social worker throughout the visit.

Additionally, although one of mother's program facilitators observed the August 11, 2016 visit and concluded it went very well, the visitation monitor reported mother had difficulty managing that visit. Furthermore, the visitation monitor at this visit observed mother only "some of the time," rather than "consistently," was attentive to, appropriately disciplined, understood the needs of, spoke at age level to, was aware of the abilities of, sought eye contact with, and comforted the children.

Thus, the evidence supported a finding mother was only sometimes able to adequately care for the minors during a one-hour supervised visit. She was unable to establish the minors would be safe in her care if they were returned to her full-time supervision.

Also, the visits were not wholly positive for the minors. I.R., demonstrated escalated troublesome behavior before and after visits. He also was observed at a May 2016 visit to get upset with mother and say such things as, "I want to go home but you are on drugs," "You don't want us," "You don't want kids," "I wish [father] died," and, "He whipped me in the butt." On the other hand, I.R. was happy and secure in his placement and the stability and consistency his caretaker provided had resulted in a decrease in his troublesome behaviors. Likewise, the behavior of Ax.R. and E.R. had been improving in out-of-home care and there was an adoptive home, with their other sisters, available to provide them permanence and stability.

Additionally, while mother was able to articulate at least some of what she had learned from her services, she did not demonstrate she had the ability to safely care for the minors if they were returned to her care. For example, although mother said she had learned about "the cycle of abuse, potential explosion, honeymoon," and "red flags," she admitted she had recently entered into a relationship with a man who had spent the night

in her home 12 times in the past two months. She did not, however, know if he had criminal background or a history of domestic violence. Nor had she disclosed this relationship to her individual counselor, her domestic violence group counselor, or the social worker. In light of mother's history of domestic violence, this conduct demonstrates a lack of understanding of the risk of becoming involved in future violent relationships or how to avoid such a risk.

Based on this record, mother did not establish she could safely care for the minors showing return of them to her custody was in their best interests. We conclude the juvenile court's ruling was a proper exercise of discretion.

## II

### *Adoptability of the Minors*

Mother also claims there is insufficient evidence to support the juvenile court's finding the minors Ax.R., E.R., A.R., and L.R. (sisters) were adoptable. We reject this claim and conclude substantial evidence supports the juvenile court's finding of adoptability.

A court must find, by clear and convincing evidence, a child is likely to be adopted before terminating parental rights and selecting adoption as the permanent plan for the child. (§ 366.26, subd. (c)(1); *In re Ronell A.* (1996) 44 Cal.App.4th 1352, 1368.) We review this finding for substantial evidence. (*In re Lukas B.* (2000) 79 Cal.App.4th 1145, 1154.) “[W]e presume in favor of the order, considering the evidence in the light most favorable to the prevailing party, giving the prevailing party the benefit of every reasonable inference and resolving all conflicts in support of the order. [Citations.]” (*In re Autumn H.* (1994) 27 Cal.App.4th 567, 576 (*Autumn H.*))

“The issue of adoptability . . . focuses on the *minor*, e.g., whether the minor's age, physical condition, and emotional state make it difficult to find a person willing to adopt



the minor. [Citations.]” (*In re Sarah M.* (1994) 22 Cal.App.4th 1642, 1649 (*Sarah M.*)). It is not necessary that the minor already be in a potential adoptive home, or even that there be a prospective adoptive parent. (*Ibid.*; see also § 366.26, subd. (c)(1) [“The fact that the child is not yet placed in a preadoptive home . . . shall not constitute a basis for the court to conclude that it is not likely the child will be adopted”].) And the prospect that the minor may have some continuing behavioral problems does not foreclose a finding of adoptability. (See *In re Jennilee T.* (1992) 3 Cal.App.4th 212, 224-225.) However, “[t]here must be convincing evidence of the likelihood that adoption will take place within a reasonable time. [Citation.]” (*In re Brian P.* (2002) 99 Cal.App.4th 616, 624.)

While the issue of adoptability usually focuses on the minor, “in some cases a minor who ordinarily might be considered unadoptable due to age, poor physical health, physical disability, or emotional instability is nonetheless likely to be adopted because a prospective adoptive family has been identified as willing to adopt the child.” (*Sarah M.*, *supra*, 22 Cal.App.4th at p. 1650.) “Where the social worker opines that the minor is likely to be adopted based solely on the existence of a prospective adoptive parent who is willing to adopt the minor, an inquiry may be made into whether there is any legal impediment to adoption by that parent [citations]. In such cases, the existence of one of these legal impediments to adoption is relevant because the legal impediment would preclude the very basis upon which the social worker formed the opinion that the minor is likely to be adopted. [Citation.]” (*Ibid.*)

The term “specifically adoptable,” therefore, denotes a child who but for the existence of a prospective adoptive parent would not be adoptable. The suitability of the prospective adoptive parent is not an issue when the child is generally adoptable; it may be placed in issue when the child is specifically adoptable.

Here, the most recent social worker's report stated the four sisters were "specifically adoptable" by their current caretaker. The earlier social worker's reports (in June 2015 and November 2015), however, concluded the minors were generally adoptable, despite the behavior problems of the two oldest sisters, Ax.R. and E.R.-- problems that had improved since the writing of those earlier reports. The juvenile court stated only it found the minors were likely to be adopted. Our review of the court's determination of adoptability is limited to whether those findings are supported by substantial evidence. (*In re Lukas B.*, *supra*, 79 Cal.App.4th at p. 1154.)

The evidence supports a finding minors Ax.R., E.R., A.R., and L.R. are likely to be adopted. Although Ax.R. and E.R. still had some behavioral issues, those behaviors were improving. They were all physically healthy and developmentally on target. Ax.R. was described as friendly and intelligent. E.R. was described as kind and energetic. A.R. was described as lovable, and L.R. was an active and curious toddler who is able to form healthy attachments to her caregiver. They had formed good relationships with previous caretakers and a placement had been found with a new prospective adoptive parent who was willing to adopt all four sisters. The fact a prospective adoptive parent has expressed interest in adopting the four sisters is evidence the minors' age, physical condition, mental state, and other matters relating to the minors are not likely to dissuade individuals from adopting them. (*Sarah M.*, *supra*, 22 Cal.App.4th 1642, 1649.) "A prospective adoptive parent's willingness to adopt generally indicates the minors are likely to be adopted within a reasonable time either by the prospective adoptive parent *or by some other family.*" (*Id.* at pp. 1649-1650.) While it may have been more difficult to place the four minors together due to being a larger sibling group, as well as Ax.R.'s and E.R.'s behavioral issues, the Department had found an approved prospective adoptive parent who was committed to adopting the four

sisters. Thus, the evidence supports the juvenile court's finding the minors are likely to be adopted within a reasonable time.

Specifically, the evidence supported a finding the minors were likely to be adopted by their current prospective adoptive parent. There are no legal impediments to the minors' adoption. The prospective-adoptive parent was home-study approved, the placement had been successful, and there was evidence the minors were doing well in the placement. The adoptions social worker was very familiar with the minors' medical/dental status, developmental status, educational status, emotional/behavioral status, and personal characteristics. She had a preplacement "disclosure meeting" to apprise the prospective adoptive parent of the minors' challenges and issues. The prospective-adoptive parent was a school teacher who was experienced in dealing with children. She also had prior experience with children in the foster care system and remained committed to adopting these minors.

Mother emphasizes the minors had lived with the prospective-adoptive parent for only one month and it was still possible she would be unable or unwilling to "handle the needs" of the minors. A guarantee of success, however, is not required to find the minors adoptable. The law requires only that the court find the children are "*likely* to be adopted within a reasonable period of time." (*In re Tabatha G.* (1996) 45 Cal.App.4th 1159, 1164; § 366.26, subd. (c)(1); italics added.) Here, there were multiple overnight visits prior to their placement and the prospective-adoptive parent was fully apprised of the minors' challenges--that *had* been improving. There were no reports of concerns regarding those visits and both the visits and the transition after placement had gone quite well.

Under these circumstances, we conclude there is substantial evidence supporting the trial court's decision to find the minors adoptable and terminate parental rights.

### III

#### ***Beneficial Parental Relationship Exception***

Mother contends the juvenile court erred by failing to find the beneficial relationship exception to adoption applied. We conclude the record supports the juvenile court's ruling.

At the selection and implementation hearing held pursuant to section 366.26, a juvenile court must choose one of the several “ ‘possible alternative permanent plans for a minor child. . . . *The permanent plan preferred by the Legislature is adoption.* [Citation.]’ [Citation.] If the court finds the child is adoptable, it *must* terminate parental rights absent circumstances under which it would be detrimental to the child. [Citation.]” (*In re Ronell A.*, *supra*, 44 Cal.App.4th at p. 1368.)

There are only limited circumstances that permit the court to find a “compelling reason for determining that termination [of parental rights] would be detrimental to the child.” (§ 366.26, subd. (c)(1)(B).) One such circumstance is when “[t]he parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship.” (§ 366.26, subd. (c)(1)(B)(i).)

To prove the beneficial parental relationship exception applies, the parent must show there is a significant, positive emotional attachment between the parent and child. (*In re Beatrice M.* (1994) 29 Cal.App.4th 1411, 1418-1419.) And even if there is such a bond, the parent must prove the parental relationship “ ‘promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents.’ ” (*In re S.B.* (2008) 164 Cal.App.4th 289, 297, quoting *Autumn H.*, *supra*, 27 Cal.App.4th at p. 575; accord, *In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1345 (*Jasmine D.*)). “In other words, the court balances the strength and quality of the natural parent[-]child relationship in a tenuous placement

against the security and the sense of belonging a new family would confer. If severing the natural parent[-]child relationship would deprive the child of a substantial, positive emotional attachment such that the child would be greatly harmed, the preference for adoption is overcome and the natural parent's rights are not terminated.” (*Autumn H.*, *supra*, 27 Cal.App.4th at p. 575.) On the other hand, “[w]hen the benefits from a stable and permanent home provided by adoption outweigh the benefits from a continued parent/child relationship, the court should order adoption.” (*Jasmine D.*, at p. 1350; *Autumn H.*, at p. 575.)

“Because a section 366.26 hearing occurs only after the court has repeatedly found the parent unable to meet the child's needs, it is only in an extraordinary case that preservation of the parent's rights will prevail over the Legislature's preference for adoptive placement.” (*Jasmine D.*, *supra*, 78 Cal.App.4th at p. 1350.) “ ‘Adoption is the Legislature's first choice because it gives the child the best chance at [a full] emotional commitment from a responsible caretaker.’ ” (*In re Celine R.* (2003) 31 Cal.4th 45, 53, quoting *Jasmine D.*, at p. 1348.) “The beneficial parental relationship exception is an *exception* to the general rule that the court must choose adoption where possible, and it ‘must be considered in view of the legislative preference for adoption when reunification efforts have failed.’ ” (*In re Celine R.*, at p. 53.)

Here, mother did not establish the minors had a significant, positive emotional attachment or relationship with her.

Visitation was consistent during the proceedings. Visitation was always supervised; it did not progress to unsupervised or overnight visits. Mother had difficulty engaging and directing all five children during visits. The social worker reported mother was unable to multitask with all the children and had difficulty taking suggestions from social workers to help her better manage and engage the children. The social worker also

reported the visits with mother were not positive experiences for all the children and mother did not interact consistently with all of the children during visits. For example, at one observed visit, I.R.'s behavior escalated prior to the visit ending, and he appeared upset at mother, saying, "I want to go home but you are on drugs," "You don't want us," "You don't want kids," "I wish [father] died," and, "He whipped me in the butt." I.R. became more defiant and instances of urinating on himself increased at the times surrounding visits. He also had reported his mother had told him to make marks on his arm and blame his caretaker for the injury. In another visit, it was observed mother did not interact with her two youngest daughters, A.R. and L.R., for the first 15 minutes of the visit. Mother was focused on her son, I.R.

Most of the minors were very young when removed from mother's custody. At the time of removal, L.R. was about one month old, A.R. was a little more than one year old, E.R. was three years old, I.R. was four years old, and Ax.R. was six years old. All of the minors had been out of mother's care for almost two years. That amounted to a quarter of Ax.R.'s life, a third of I.R.'s life, two-thirds of A.R.'s life, two-fifths of E.R.'s life, and essentially all of L.R.'s life. The minors had been able to develop bonds with their caretakers and separated easily from mother at the end of visits. None of the minors showed any distress for mother's absence, nor did they ask for her when she was not around.

We conclude there is substantial evidence mother does not occupy a significant parental role with any of the five minors. The record supports the juvenile court's finding the minors' relationship with mother did not amount to a substantial, positive emotional attachment, the severance of which would cause great harm to the minors.

DISPOSITION

The orders of the juvenile court are affirmed.

\_\_\_\_\_/s/  
HOCH, J.

We concur:

\_\_\_\_\_/s/  
MAURO, Acting P. J.

\_\_\_\_\_/s/  
RENNER, J.